



NUCLEAR REGULATORY COMMISSION

[Docket No. 30-37878; License No(s). 13-32725-01; EA-24-115; EAF-RIII-2025-0068;
NRC-2025-0081]

In the Matter of Patriot Engineering and Environmental, Inc.;

Confirmatory Order Modifying License

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a Confirmatory Order to Patriot Engineering and Environmental, Inc., to memorialize the agreement reached during an alternative dispute resolution mediation session held on February 18, 2025. The Confirmatory Order contains commitments made to resolve three apparent violations of NRC requirements relating to the loss and subsequent recovery of portable moisture density gauge on November 15, 2023. The commitments include actions by Patriot Engineering and Environmental, Inc., to establish roles and responsibilities for site radiation safety officers, develop and implement an inspection program of gauge users, label gauges with licensee contact information, use tracking devices to monitor the location of the gauges, and develop a training program for gauge users and site radiation safety officers. The Confirmatory Order is effective upon issuance.

DATES: The Confirmatory Order was issued on April 25, 2025.

ADDRESSES: Please refer to Docket ID **NRC-2025-0081** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2025-0081**. Address questions about Docket IDs in Regulations.gov to Bridget Curran; telephone: 301-415-1003; email:

Bridget.Curran@nrc.gov. For technical questions, contact the individual listed in the “For Further Information Contact” section of this document.

- **NRC’s Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The Confirmatory Order Related to NRC Reactive Inspection Report No. 03037878/2023001 (DRSS) – Patriot Engineering and Environmental, Inc., is available in ADAMS under Accession No. ML25070A278.

- **NRC’s PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Diana Betancourt-Roldan, Region III, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 630-810-4373; email: Diana.Betancourt-Roldan@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the order is attached.

Dated: May 8, 2025.

For the Nuclear Regulatory Commission.

Mohammed Shuaibi,
Deputy Regional Administrator, Region III.

Attachment – In the Matter of Patriot Engineering and Environmental, Inc.; Confirmatory Order Modifying License

I

Patriot Engineering and Environmental, Inc., (Patriot or the licensee) is the holder of Nuclear Materials License No. 13-32725-01, Amendment 9, issued on May 30, 2024, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 30 of Title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes the operation of portable moisture/density gauges containing licensed radioactive materials for measuring physical properties of materials at temporary job sites in NRC jurisdiction in accordance with conditions specified in the license. The licensee has seven facilities located throughout the State of Indiana.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on February 18, 2025.

II

On December 14, 2023, an inspector from the NRC conducted a reactive inspection at Patriot's Evansville, Indiana, facility and at a temporary job site in Evansville, Indiana. The purpose of this inspection was to review the circumstances, root and contributing causes, and

corrective actions for the loss and recovery of a portable moisture density gauge containing regulated material, which Patriot staff reported to the NRC on November 16, 2023.

On November 20, 2024, the NRC issued Inspection Report 03037878/2023001 (DRSS) to Patriot (Agencywide Documents Access and Management System (ADAMS) Accession No. ML24304A275), which documented the identification of three apparent violations of NRC requirements that were being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The apparent violations involved: (1) the failure to control and maintain constant surveillance of a portable moisture density gauge as required by 10 CFR 20.1802 after failing to secure it as required by 10 CFR 30.34(i); (2) the failure to secure this gauge from shifting during transport as required by 10 CFR 71.5(a) and 49 CFR 173.448(a); and (3) the failure to lock the gauge or an outer container when in transport, as required by Condition 17 of NRC License No. 13-32725-01.

The NRC notified Patriot by letter dated November 20, 2024, of the results of the inspection with an opportunity to: (1) provide a response in writing, (2) attend a predecisional enforcement conference or (3) participate in an ADR mediation session in an effort to resolve this matter.

In response to the NRC's offer, Patriot requested the use of the NRC's ADR process to resolve differences it had with the NRC. On February 18, 2025, the NRC and Patriot met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

During the ADR mediation session, Patriot and the NRC reached a preliminary settlement agreement.

The NRC recognizes that immediately following the loss of the gauge, Patriot took immediate corrective actions to attempt to recover the gauge. Additional corrective actions included: (1) conducting formal discussion of the incident and future prevention with the technicians based at Patriot's Indianapolis, Indiana (IN), Fort Wayne, IN, Lafayette, IN, Bloomington, IN, Evansville, IN, and Terre Haute, IN locations; (2) sending a formal memorandum to all site radiation safety officers (RSOs) highlighting the incident; and (3) adding tracking mechanisms and labels with Patriot's contact information to all gauges.

Therefore, the parties agree to the following terms and conditions:

1. Within one year of the effective date of the Confirmatory Order, the licensee shall establish roles and responsibilities for, and designate, a site radiation safety officer (RSO) for each facility listed on Patriot's license. The licensee shall also designate a site RSO for each additional facility added to its license, or due to turnover at an existing facility, within six months. The licensee shall ensure each site RSO has completed RSO training before executing site RSO duties.
2. Within one year of the effective date of the Confirmatory Order, the licensee shall develop and implement an inspection program of the job performance of each gauge user to ensure that the Commission's regulations, license requirements, and the licensee's operating and emergency procedures are followed. The inspection program must be conducted by the corporate RSO or site RSOs, and must:
 - a. Include observation of the performance of each active gauge user during the actual conduct of licensed activities at an actual temporary job site at intervals not to

exceed one year. The observations shall include at a minimum that the gauge is properly secured when not in use and the gauge is controlled and under constant surveillance when in use; and

- b. Ensure that, if the corporate or site RSO is an active gauge user, their inspection is performed by an individual with formal RSO training.

The licensee shall attempt to perform these inspections unannounced to the gauge user. The licensee shall also maintain records of these inspections and practical examinations for five years after the record is made. These records must include a list showing the items checked, any non-compliances observed, and any corrective actions taken. If the inspection is not performed unannounced, the records must also include the reason why it could not be performed unannounced.

3. Within one year of the effective date of the Confirmatory Order, the licensee shall develop and implement a written procedure for all gauge users to provide photographic evidence to the corporate or site RSO that the gauge is properly secured prior to being left unattended at temporary job sites or prior to transport. This photographic evidence must include that:
 - a. The gauge or its case is locked to prevent unauthorized or accidental removal of the sealed source from its shielded position; and
 - b. The gauge and its case are adequately secured to prevent shifting during normal transport conditions; and
 - c. The gauge is secured with a minimum of two independent physical controls that form tangible barriers against unauthorized removal, whenever the gauge is not under the control and constant surveillance of the licensee.

The licensee shall maintain documentation of each confirmation for one year after the record is made.

4. Within 90 days of the effective date of the Confirmatory Order, the licensee shall affix a tracking device to monitor the location of the gauges it currently owns. For each gauge it procures subsequent to the effective date of the Confirmatory Order, the licensee shall affix a tracking device prior to using the gauge in the field. For each gauge it procures subsequent to the effective date of the Confirmatory Order, the licensee shall maintain for five years records demonstrating that tracking devices were installed prior to use.

5. Within a year of the effective date of the Confirmatory Order, the licensee shall develop a program for initial and annual refresher training for all technicians and site RSOs, specifically including suitably comprehensive discussion and evaluation of requirements and methods for adequately securing portable gauges. This program will be implemented beginning in calendar year 2026 and will require each gauge user to demonstrate knowledge of the licensee's training requirements by a practical examination at intervals not to exceed one year. The licensee shall maintain for five years records demonstrating that gauge users have completed this training.

6. Within 18 months of the effective date of the Confirmatory Order, the licensee shall require the corporate RSO to provide a report of the audit results required by NRC regulations and this Confirmatory Order as well as relevant industry operating experience (as available) to the licensee's president and the internal safety committee. A more succinct version of this report will also be distributed to all Patriot employees. These reports will be provided annually each year after the initial report. The licensee shall maintain for five years records demonstrating that these reports were issued.

7. Within six months of the effective date of the Confirmatory Order, the licensee shall maintain legible stickers that include corporate RSO and site RSO contact information on all gauge cases and gauges. This will allow members of the public to contact the licensee should a gauge be lost. If the corporate RSO or site RSO or their contact information changes, the licensee will update the stickers within 60 days of the change.

8. Within 3 years of the effective date of the Confirmatory Order, the licensee shall complete an audit of its radiation safety program conducted by an independent third party with experience relevant to gauge safety and security. The audit shall include at a minimum a review of the implementation of items 1-7 above and include at least fifty percent of the facilities listed on the license. The licensee shall maintain for five years records demonstrating the completion of this audit. The licensee shall also complete and maintain for five years a report detailing its disposition of the audit recommendations.

Based on the completed actions and commitments described above and the license modifications described in provisions 1-8 of Section V below the NRC agrees not to pursue any further enforcement action in connection with the apparent violations described in NRC's letter dated November 20, 2024, and relating to Inspection Report 03037878/2023001 (DRSS). The NRC will also refrain from taking enforcement action for three years from the effective date of the Confirmatory Order on any non-willful two barriers (i.e., 10 CFR 30.34(i)) violations with no actual consequences that the licensee identifies, documents, and resolves on its own through implementation of the requirements in the order. In further consideration of the commitments delineated above, the NRC agrees to refrain from issuing a notice of violation or proposing a civil penalty. However, the NRC will consider this Confirmatory Order as an escalated enforcement action.

This agreement is binding upon successors or assignees of Patriot. The terms and conditions set forth herein shall accordingly continue to apply to Patriot and survive any transfer of ownership or license.

On March 25, 2025, Patriot consented to issuing this Confirmatory Order with the commitments as described in Section V below. Patriot further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that Patriot has waived its right to a hearing.

IV

I find that Patriot's actions completed, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Patriot's commitments be confirmed by this Confirmatory Order. Based on the above and Patriot's consent, this Confirmatory Order is effective upon issuance.

One year after issuance of the Order and yearly thereafter until completion of the commitments specified in Section V, Patriot is required to notify the NRC in writing and summarize its actions.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 20, 30, and 71, and 49 CFR Part 173, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, THAT License No. 13-32725-01 IS MODIFIED AS FOLLOWS:

1. Within one year of the effective date of the Confirmatory Order, the licensee shall establish roles and responsibilities for, and designate, a site RSO for each facility listed on Patriot's license. The licensee shall also designate a site RSO for each additional facility added to its license, or due to turnover at an existing facility, within six months. The licensee shall ensure each site RSO has completed RSO training before executing site RSO duties.

2. Within one year of the effective date of the Confirmatory Order, the licensee shall develop and implement an inspection program of the job performance of each gauge user to ensure that the Commission's regulations, license requirements, and the licensee's operating and emergency procedures are followed. The inspection program must be conducted by the corporate RSO or site RSOs, and must:

- a. Include observation of the performance of each active gauge user during the actual conduct of licensed activities at an actual temporary job site at intervals not to exceed one year. The observations shall include at a minimum that the gauge is properly secured when not in use and the gauge is controlled and under constant surveillance when in use; and
- b. Ensure that, if the corporate or site RSO is an active gauge user, the inspection of their job performance is performed by an individual with formal RSO training.

The licensee shall attempt to perform these inspections unannounced to the gauge user. The licensee shall also maintain records of these inspections and practical examinations for five years after the record is made. These records must include a list showing the items checked, any non-compliances observed, and any corrective actions taken. If the inspection is not performed unannounced, the records must also include the reason why it could not be performed unannounced.

3. Within one year of the effective date of the Confirmatory Order, the licensee shall develop, implement, and follow a written procedure for all gauge users to provide photographic evidence to the corporate or site RSO that the gauge is properly secured prior to being left unattended at temporary job sites or prior to transport. This photographic evidence must include that:
 - a. The gauge or its case is locked to prevent unauthorized or accidental removal of the sealed source from its shielded position; and
 - b. The gauge and its case are adequately secured to prevent shifting during normal transport conditions; and

- c. The gauge is secured with a minimum of two independent physical controls that form tangible barriers against unauthorized removal, whenever the gauge is not under the control and constant surveillance of the licensee.

The licensee shall maintain documentation of each confirmation for one year after the record is made.

4. Within 90 days of the effective date of the Confirmatory Order, the licensee shall affix a tracking device to monitor the location of the gauges it currently owns. For each gauge it procures subsequent to the effective date of the Confirmatory Order, the licensee shall affix a tracking device prior to using the gauge in the field. For each gauge it procures subsequent to the effective date of the Confirmatory Order, the licensee shall maintain for five years records demonstrating that tracking devices were installed prior to use.
5. Within a year of the effective date of the Confirmatory Order, the licensee shall develop a program for initial and annual refresher training for all technicians and site RSOs, specifically including suitably comprehensive discussion of and evaluation on requirements and methods for adequately securing portable gauges. This program will be implemented beginning in calendar year 2026 and will require each gauge user to demonstrate knowledge of the licensee's training requirements by a practical examination at intervals not to exceed one year. The licensee shall maintain for five years records demonstrating that gauge users have completed this training.
6. Within 18 months of the effective date of the Confirmatory Order, the licensee shall require the corporate RSO to provide a report of the audit results required by NRC regulations and this Confirmatory Order as well as relevant industry operating experience (as available) to the licensee's president and the internal safety committee. A more succinct version of this report will also be distributed to all Patriot employees.

These reports will be provided annually each year after the initial report. The licensee shall maintain for five years records demonstrating that these reports were issued.

7. Within six months of the effective date of the Confirmatory Order, the licensee shall affix and maintain legible stickers that include corporate RSO and site RSO contact information on all gauge cases and gauges. This will allow members of the public to contact the licensee should a gauge be lost. If the corporate RSO or site RSO or their contact information changes, the licensee will update the stickers within 60 days of the change.

8. Within 3 years of the effective date of the Confirmatory Order, the licensee shall complete an audit of its radiation safety program conducted by an independent third party with experience relevant to gauge safety and security. The audit shall include at a minimum a review of the implementation of items 1-7 above and include at least fifty percent of the facilities listed on the license. The licensee shall maintain for five years records demonstrating the completion of this audit. The licensee shall also complete and maintain for five years a report detailing its disposition of the audit recommendations.

This agreement is binding upon successors and assignees of Patriot Engineering and Environmental, Inc. The Deputy Regional Administrator, Region III may, in writing, relax or rescind any of the above conditions upon demonstration by Patriot or its successors of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than Patriot, may request a hearing within thirty (30) calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of

time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter “petition”), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC’s E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the “Guidance for Electronic Submissions to the NRC” (ADAMS Accession No. ML13031A056) and on the NRC’s public website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at Hearing.Docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and

(2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

If a person other than Patriot requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission

/RA/

Mohammed A. Shuaibi
Deputy Regional Administrator

Dated this 25th day of April 2025

Attachments: As stated

INDIANA FACILITIES OWNED OR LEASED AND OPERATED BY PATRIOT
ENGINEERING AND ENVIRONMENTAL, INC., WITH MOISTURE DENSITY GAUGES

Patriot Engineering and Environmental, Inc.

Docket Nos. 030-37878

License Nos. 13-32725-01

Mr. Curtis Taylor

Corporate Safety Director/RSO

Patriot Engineering and Environmental, Inc.

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